

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
Preserving the Open Internet	)	GN Docket No. 09-191
	)	
Broadband Industry Practices	)	WC Docket No. 07-52
TO THE COMMISSION		

**WITHDRAWAL OF APPLICATION FOR REVIEW**

The League of United Latin American Citizens (“LULAC”) respectfully withdraws its January 4, 2010 Application for Review of the *Revised Sunshine Notice* in the Open Internet proceeding.<sup>1</sup> Therein LULAC asked the Commission to do away with a new and previously unannounced policy of allowing certain online filings to be considered during the Sunshine period, a policy that could have disadvantaged those who are not online.

In its February 2, 2011 R&O and Further NPRM in the *Ex Parte* Rules proceeding,<sup>2</sup> the Commission stated:

73. Although we did not propose any rule amendments in the Notice regarding the treatment of comments on various Commission new media sites, including the Commission’s blogs, its Facebook page, its MySpace page, its IdeaScale pages, its Flickr page, its Twitter page, its RSS feeds, and its YouTube page, several commenters addressed this issue.

74. As a general matter the commenters addressing this issue see the Commission’s use of new media as a valuable part of its public outreach, but several expressed reservations about the use of this material in Commission proceedings. For example, NTCA states that

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<sup>1</sup> FCC To Hold Open Commission Meeting Thursday, October 22, 2009 (rel. Oct. 16, 2009) (the “Revised Sunshine Notice”) (*available at* [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-294028A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-294028A1.pdf)).

<sup>2</sup> Report and Order and Further NPRM in Amendment of the Commission’s *Ex Parte* Rules and Other Procedural Rules, GC Docket No. 10-43, FCC 11-11 (released February 2, 2011) at ¶¶73-75 (fns. omitted).

blog material should not be used as part of the record in rulemaking proceedings. Although NTCA believes blog material may be helpful in some proceedings such as notices of inquiry, it states that the volume of blog material that may be submitted makes it difficult to monitor. NTCA argues that including such submissions in the record of a rulemaking proceeding could obscure rather than clarify the record, and that result would be inconsistent with the goal of the ex parte rules. Accordingly, NTCA encourages the Commission not to exempt new media from the rules. AT&T, Qwest, and Verizon agree with NTCA. Verizon states that if new media presentations are included in the public record, they should be subject to the same ex parte rules as traditional presentations, including the requirement to file a notice and the prohibition on presentations during the Sunshine period.

75. These comments illustrate the complications associated with increasing the accessibility of Commission decision-making via new media in proceedings governed by the Administrative Procedure Act. We have incorporated some of this material into the record of some inquiries and other proceedings, and we will continue to develop ways that will make its inclusion in more proceedings technically and practically possible. However, at this time we agree with the commenters that incorporating blog posts and other presentations via new media into the record of all rulemaking proceedings would be impractical. Therefore, as stated in the Notice, we will continue to associate new media contacts in the records of specific proceedings, on the terms announced for those particular proceedings. In addition, users of new media may file comments electronically in any permit-but-disclose proceeding consistent with the ex parte rules by clicking on the link to ECFSExpress on the Commission's homepage: [www.fcc.gov](http://www.fcc.gov).

Thus the Commission has essentially granted the relief LULAC had sought.

Consequently, LULAC respectfully withdraws its Application for Review.

Respectfully submitted,



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